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Attorneys for Defendant Beaird Company, Ltd.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

**VESTAS-AMERICAN WIND
TECHNOLOGY, INC.,** a California
Corporation,

Plaintiff,

BEAIRD COMPANY, LTD., a Louisiana
Company,

Defendants.

Civil Action No. 07-1651-PK

**DEFENDANT, BEAIRD COMPANY,
LTD'S ANSWER AND
COUNTERCLAIMS TO THE FIRST
AMENDED COMPLAINT**

Defendant, Beaird Company, Ltd.'s Answer and
Counterclaims To the First Amended Complaint

Beaird Company, Ltd. (“Beaird”) files its Answer and Counterclaim to Plaintiff/Counterclaim Defendant Vestas-American Wind Technology, Inc.’s (“Vestas”) First Amended Complaint (“Complaint”) and would show the Court as follows:

ORIGINAL ANSWER

Parties and Jurisdiction

1. Beaird admits that Vestas is a corporation organized under the laws of the state of California. Beaird is without sufficient information to form a belief as to the truth or falsity of the balance of allegations in paragraph 1 of the Complaint, and therefore denies such allegations.

2. Beaird admits the allegations of paragraph 2 of the Complaint.

3. Beaird denies that it has claimed in the past to Vestas that Vestas infringes any of Beaird’s three patents. Beaird admits that this action arises under the laws of the United States.

4. Beaird admits the allegations in paragraph 4 of the Complaint.

5. Beaird denies the allegations in paragraph 5 of the Complaint.

6. Beaird admits that this Court has previously found personal jurisdiction over Beaird.

7. Beaird does not fully understand Vestas’ statement that Beaird has had “substantial” contacts with this district since 2005, so therefore denies same. Beaird does not fully understand Vestas’ statement that Beaird has “conducted regular and substantial business in this district”, so therefore denies same. Subject to the qualifications and clarifications as set forth in Beaird’s Memorandum in Support of Defendants’ Motion to Dismiss or, in the Alternative, Motion to Transfer, Beaird admits the balance of allegations in paragraph 7 of the Complaint.

8. Beaird admits that an implied license to the patents-in-suit has attached to the wind towers that Beaird manufactured for Vestas. Beaird is without sufficient information to form a belief as to the truth or falsity of the balance of allegations in paragraph 8 of the Complaint, and therefore denies such allegations.

VESTAS' ALLEGATION OF PATENT NON-INFRINGEMENT

9. Beaird admits that Vestas purports to incorporate paragraphs 1 through 8 by reference.

10. Beaird admits the allegations of paragraph 10 of the Complaint.

11. Beaird denies the allegations of paragraph 11 of the Complaint.

12. Beaird denies the allegations of paragraph 12 of the Complaint.

VESTAS' PRAYER FOR RELIEF

Beaird denies that Vestas is entitled to any of the relief requested from Beaird or the Court in the Complaint.

BEAIRD'S AFFIRMATIVE DEFENSES

Beaird reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the patent laws of the United States, and any other defenses, at law or in equity, that may now or in the future be available based on discovery or further factual investigation in this case.

BEAIRD'S COUNTERCLAIMS

Defendant/Counterclaim-Plaintiff Beaird counterclaims against Plaintiff/Counterclaim-Defendant Vestas as follows:

1. Beaird is a Louisiana corporation having a principal place of business in Shreveport, Louisiana.

2. This Court has personal jurisdiction over Vestas.

3. This Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338 and 2201.

COUNT 1 – PATENT INFRINGEMENT

4. Beaird realleges and incorporates by reference paragraphs 1 through 3 of these counterclaims.

5. United States Patent No. 6,467,233 (“the ‘233 patent”), entitled “Wind Tower”, and United States Patent No. 6,532,700 (“the ‘700 patent”), entitled “Flange with Cut for Wind Tower”, were issued by the United States Patent and Trademark Office. The ‘233 patent and the ‘700 patent have been assigned to Beaird.

6. Beaird owns all right, title and interest in and to the ‘233 and ‘700 patents, and owns the right to sue for past, present and future infringement thereof.

7. Upon information and belief, Vestas has infringed and is infringing at least claim 1 of the ‘233 patent.

8. Upon information and belief, Vestas has infringed and is infringing at least claim 1 of the ‘700 patent.

9. As a result of Vestas’ conduct, Beaird has been damaged, and will continue to be damaged in the future. Vestas is liable to Beaird in an amount that adequately compensates Beaird, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Beaird prays for entry of judgment:

A. that at least claim 1 of the ‘233 patent has been infringed by Vestas and by others whose infringement has been contributed to and/or induced by Vestas;

- B. that at least claim 1 of the '700 patent has been infringed by Vestas and by others whose infringement has been contributed to and/or induced by Vestas;
- C. that Vestas and each of its officers, agents, employees, representatives, successors, assigns, and those acting in privity or in concert with them be permanently enjoined from further infringement of the '233 patent;
- D. that Vestas and each of its officers, agents, employees, representatives, successors, assigns, and those acting in privity or in concert with them be permanently enjoined from further infringement of the '700 patent;
- E. that Vestas account for and pay to Beaird all damages and costs caused by Vestas' activities complained of herein;
- F. that Beaird be granted pre-judgment interest and post-judgment interest on all damages caused by reason of Vestas' activity complained of herein;
- G. that Beaird be granted its attorney's fees;
- H. that costs be awarded to Beaird; and
- I. that Beaird be granted such other and further relief that is just and proper under the circumstances.

Dated: November 25, 2008

Respectfully submitted:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 25, 2008, a true copy of
**DEFENDANT, BEAIRD COMPANY, LTD'S ANSWER AND COUNTERCLAIMS TO
THE FIRST AMENDED COMPLAINT** was served by electronic mail to:

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/s/ Christopher M. Faucett
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